

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

EDWARD R. COSS, JR.,	:	CIVIL ACTION NO. 1:01-CV-00878
	:	
	:	
Petitioner,	:	(Judge Caldwell)
	:	
	:	(Magistrate Judge Blewitt)
v.	:	
	:	
JAMES P. MORGAN, et al.,	:	
	:	
Respondents	:	

BRIEF IN SUPPORT OF RESPONDENTS'
MOTION TO SUSPEND LOCAL RULES

Respondents, through their undersigned counsel, have this date moved the Court for an Order suspending the Local Rules so as to permit the filing in this case of a Supplemental Memorandum of Law.

Pursuant to L.R. 7.5, this brief is filed in support of that motion.

SUPPORTING ARGUMENT

L.R. 1.3 specifies that the court may suspend the rules in individual cases by written order, but neither specifies not limits the grounds for suspending the rules.

Respondents suggest that the just, speedy and inexpensive determination of this cause will be secured if the motion to suspend the rules which this brief supports is granted, and respondents further suggest that factor as an adequate basis for granting the motion to suspend the local rules.

It is under the ægis of the Federal Rules of Civil Procedure that the Local Rules for District Courts are authorized.

Fed.R.Civ.Proc. 83(a) provides in pertinent part that: “Each district court, ... may. ... make and amend rules governing its practice.”

Fed.R.Civ.Proc. 1 specifies that the Federal Rules of Civil Procedure shall “govern the procedure in the United States district courts in all cases of a civil nature . . . with the exceptions stated in Rule 81. They shall be construed and administered to secure the just, speedy and inexpensive determination of every action.”

Note: Rule 81(a)(2) tends to allow for application of the Federal Rules of Civil Procedure in nearly all aspects of federal habeas corpus cases that here would be pertinent.

Because

(A.) the Federal Rules of Civil Procedure are applicable in this situation;
and

(B.) because the just, speedy and inexpensive determination of this action
would be thereby promoted; and

(C.) because the required effort of the court to resolve the issues in this case
would be fostered and not impeded if respondents motion to suspend the
local rules were granted ,

the motion to suspend the local rules ought to be granted.

Conclusion

An order should be entered granting respondents motion to suspend the local
rules.

Respectfully submitted, December 2, 2004.

s/ William P. O'Malley
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CERTIFICATE OF SERVICE

I hereby certify that on December 2, 2004, I served a copy of the foregoing:

**Brief in Support of Respondents'
Motion to Suspend Local Rules**

upon Petitioner,

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by prepaid first class U.S. Mail,

s/ William P. O'Malley
William P. O'Malley
Assistant District Attorney